

**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency  
Washington, DC 20250

**Notice FC-150**

1951-S

**For:** State and County Offices

**Establishing State FSA Civil Rights Independent Review Groups  
to Review Pending Acceleration and Foreclosure Cases**

**Approved by:** Acting Administrator



**Note:** No accelerations or subsequent actions on foreclosures or forced liquidations are to proceed until compliance with this notice is achieved. This notice does not apply to accounts previously reviewed and approved by the Office of Civil Rights under Notice FC-114.

**1 Overview**

**A  
Background**

Notice FC-114 was issued to establish a procedure to provide for a national independent review procedure to review all pending foreclosure cases and those facing acceleration. Notice FC-114 provided checklists to be completed and forwarded to the USDA Independent Review Team for its approval before acceleration and further foreclosure action could be taken. The Department established a temporary diverse independent team to review all pending accelerated accounts and other potential foreclosure cases ready for acceleration.

**B  
Purpose**

This notice:

- establishes a procedure for State self-certification after the USDA Independent Review Team was disbanded September 12, 1997, by implementing a State FSA Civil Rights Independent Review Group
- updates checklists that are to be completed and submitted for review to SED.

**Disposal Date**

September 1, 1998

**Distribution**

State Offices; State Offices relay to County Offices

10-22-97

## **2 Action**

### **A Establishing State Review Group**

Each State Office is to appoint a diverse Civil Rights Independent Review Group, which is representative of the State population, to determine whether discrimination or inequitable treatment contributed to the failure of the farming operation. Each member in the group must have an equal voice. Every effort should be made to appoint a diverse independent member who is representative of the State population. The group shall consist of the following:

- Food Agriculture Council (FAC) member
- SED
- STC Minority Advisor or STC minority member
- Civil Rights Coordinator
- Ag Credit Director.

The FAC member should be the FAC Chairperson or Vice Chairperson and should be someone other than FSA SED. Local Ag Credit Officials shall complete FSA-580 (Exhibit 1) on all cases, unless a checklist was previously completed under Notice FC-94 or FC-114.

### **B Review Procedure**

The State FSA Civil Rights Independent Review Group shall review the exhibits submitted to the State Office and complete FSA-581 (Exhibit 2). FSA-581 must be signed by the FAC member, SED, STC Minority Advisor or STC minority member, Ag Credit Director, and Civil Rights Coordinator to show no evidence of inconsistencies, inequitable treatment, or discrimination complaints, written or oral, exist and the borrower has received all applicable primary loan servicing options before proceeding with acceleration or foreclosure.

After the State FSA Civil Rights Independent Review Group and SED sign FSA-581, FAX it to LSPMD at 202-720-7686. LSPMD shall provide copies to the Director, CR&SBUS.

If inequitable treatment exists and it cannot be determined whether it may be discriminatory, contact Acting Director Josie Woodley Jones, CR&SBUS, at any of the following:

- 202-418-9074 (telephone)
- 202-418-9068 (voice mail)
- 202-418-9124 (FAX).

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Continued on the next page

## Notice FC-150

### 2 Action (Continued)

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#### C

##### Using FSA-580

FSA-580 should become a part of the borrower's running case file record. Local Agricultural Credit officials shall use FSA-580 when processing all requests for primary loan servicing according to FmHA Instruction 1951-S.

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#### D

##### Completing FSA-580

Complete FSA-580 according to this table.

Part	Instructions
A and B	Complete if applications for servicing have been filed.
C and D	Complete if writedown or buyback was considered.
E	Complete on all cases.

**Note:** If an application was not received, make a note of this and any other appropriate comments in FSA-580, Parts A and E.

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#### E

##### Review

All pending accelerations, forced liquidations, and foreclosures shall be reviewed on all real estate and chattel loans. If a borrower was reviewed in the acceleration phase, it is not necessary to complete another review in the foreclosure or liquidation phase.

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#### F

##### Contact

If there are any questions, State Offices shall contact either of the following:

- Bruce Mair, LSPMD, at 202-690-4009
  - Jerry Wishall, LSPMD, at 202-720-1651.
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#### G

##### Obsolete Notice

Notice FC-114 is obsolete.

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## FSA-580, Primary Loan Servicing Checklist

REPRODUCE LOCALLY. Include form number and date on all reproductions.

<b>FSA-580</b> (10-22-97)	U. S. DEPARTMENT OF AGRICULTURE Farm Service Agency		1. County	2. State
			Anywhere	Anyhow
	<b>PRIMARY LOAN SERVICING CHECKLIST</b>		3. Borrower's Name	
			John D. Paymore	
		4. Borrower's Case No.	5. Data Checklist Was Prepared	
		XX-XX-XXXXXXXXXX	10-3-97	

## PART A - COMPLETED APPLICATION

Check the following items that were found with the application. If a complete application was not received, provide details in Item 20 if the borrower attempted to file the application. Enter "N/A" when applicable.

X	6. Attachment 2 or 4 of Exhibit A to FmHA Instruction 1951-S
X	7. Form FSA 410-1, Request for Direct Loan Assistance. Current Financial Statements on all liable parties required
X	8. Form RD 410-8, Applicant Reference Letter (if applicable)
X	9. Form FmHA 410-9, Statement Required by the Privacy Act
X	10. Form FmHA-431-2, Farm and Home Plan (FHP)
X	11. Form FmHA 440-32, Request for Statement of Debts and Collateral (if applicable)
N/A	12. Form RD 1910-5, Request for Verification of Employment (if applicable)
N/A	13. Form FmHA 1924-1, Development Plan (if applicable)
X	14. Form AD-1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification
X	15. Form NRCS-CPA-026E, Highly Erodible Land and Wetland Determination
N/A	16. Form FmHA 1956-1, Application for Settlement of Indebtedness (if applicable)
X	17. Production history for the last 5 years immediately preceding the year of production. Production history must be reconciled with FSA-156EZ records, if available.
X	18. Income and expense history for the last 5 years immediately preceding the year of application.
X	19. Copies of income tax returns and any needed supporting documents for the last 5 years immediately preceding the year of application

20. Summarize: Did the borrower provide all needed documentation within the timeframes? ☒ YES ☐ NO

If "NO", what actions did the County Office take to get an application completed?? Be specific, provide dates when the servicing notice was sent and responses returned by borrower.

## PART B - APPLICATION PROCESSING

Enter the dates to items 21 through 26. If no application was filed, go to Part E.

21. Date 1951-S FmHA Instruction package was mailed to the borrower: 4-20-97	266A. Date a current Farm and Home Plan with all appropriate dates and signatures was completed: 5-31-97		
22. Date that the borrower filed a completed application for servicing: 5-31-97	Indicate "Yes" or "No" for the following if the items were properly completed.	YES	NO
23. FSA approval or rejection of application: <input type="checkbox"/> APPROVED <input checked="" type="checkbox"/> REJECTED DATE: 9-12-97	266B. Nonfarm and other farm income has been verified and correctly entered on the FHP.	X	
24. Date that FmHA Instruction 1951-S, Exhibit E with Attachment 1 or 2 was provided to the borrower. (This is applicable in most cases where a complete application was filed and loans could not be restructured. Attachment 2 is to be used for all applications submitted on or after November 28, 1990.): 8-10-97	266C. All debts and collateral have been verified and correctly entered on the FHP. A credit report is included in the case file.	X	
	266D. The projected income, expenses, and production figures are based upon the borrower's documented 5-year history in accordance with FmHA Instruction 1924-B.	X	
25. Date that a current completed real estate and/or chattel appraisal was obtained on all FmHA security and nonessential assets. An appraisal on nonessential assets is only required for applications filed after November 28, 1990: 6-16-97	266E. The unit commodity prices used on the FHP are documented and comply with FmHA Instruction 1924-B.	X	

## FSA-580, Primary Loan Servicing Checklist (Continued)

FSA-580 (10-22-97) Page 2

27. Date the correct version of DALR\$ Analysis Report was signed and dated by the local Agriculture Credit Officer: 6-20-97		Indicate "Yes" or No" for items 27A through 27H if the items were properly completed.	
27A. The correct document rate, interest rates and net recovery constants were used in the DALR\$ calculations.	YES X	NO	27E. The entries pertaining to existing loans regarding limited resource rates, existing payment schedule, and consideration for loan servicing are correct.
27B. The "Balance Available" and "Payments and non-FSA Debt" in DALR\$ correspond to the figures from Tables J and K of FmHA 431-2.	X		27F. The value of the borrower's assets as documented by appraisals have been correctly entered into DALR\$.
27C. The projected loans on the FHP have been correctly entered into DALR\$.	X		27G. Prior liens and amounts of prior liens have been verified and correctly entered into DALR\$.
27D. The correct interest rates (original and existing), terms and unpaid principal and interest (including noncapitalized interest for DALR\$ Version 4.2) figures for all FLP debts were entered into DALR\$.	X		27H. For all applications received on or after November 28, 1990, the value of nonessential assets and properly documented unrelated security has been correctly entered into DALR\$.

28. SUMMARIZE: What did DALR\$ show? Actions that transpired after DALR\$ was run. Be specific. Include dates when events happened.  
DALR\$ showed plan was not feasible, with writedown it would be feasible. Borrower was not eligible, because a writedown was processed on 3-92 for \$86,852..

## PART C - PROCESSING WRITEDOWN OF FmHA DEBT

29. Date the Attache 1 or 2 of Exhibit F to FmHA Instruction 1951-S was signed by the borrower. Attachment 2 will be used for all applications received on or after November 28, 1990:  N/A	Indicate "Yes" or No" for the following if the items were properly completed.	YES	NO
30. Date Exhibit D to FmHA Instruction 1951-S, "Shared Appreciation Agreement," was properly prepared and executed when the loan(s) was secured by real estate:	33.1. For all applications received on or after November 28, 1990, liens were taken on other assets as required of FmHA Instruction 1951-S.		
31. Date Form FmHA-1940-17, "Promissory Note" was properly prepared and executed:	34.1. Complete AGCREDIT Borrower History Report.		
32. Date Form FmHA-1927-1, "Real Estate Mortgage," or "Deed of Trust," was properly filed, if applicable:	35.1. Original Promissory Note(s) are marked, "Rescheduled or Reamortized with Writedown Debt," and stapled to the new Note(s).		
	36.1. The Management Record System (MRS) was updated for 24-month review of County Records.		

## 37. COMMENTS:

Was borrower eligible for a writedown? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Was a writedown offered? <input type="checkbox"/> YES <input type="checkbox"/> NO
Why or why not? Received a previous writedown of \$86,852 on 3-92.	Be specific, give dates when events happened

## PART D - PROCESSING BUYBACK

38. Attachment 5-A or 6-A of Exhibit to FmHA Instruction 1951-S was signed and returned by the borrower. Attachment 6-A to be used for all application submitted on or after November 28, 1990.	YES X	NO	43.1. COMMENTS: Did the borrower buyout? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO Be specific, give dates
39. Form FmHA 451-2, "Schedule of Remittance" was properly prepared to process the buyout payment.			
40. Form FmHA 1927-1, "Real Estate Mortgage," or "Deed of Trust," was properly completed and filed if the FSA loan(s) was secured by real estate. The appropriate lien should be taken and old security interments released.			
41. Complete AGCREDIT Borrower History Report.	X		Buyout not offered - not eligible.
42. The Management Record System (MRS) was updated for 24-month review of County Records.			

## FSA-580, Primary Loan Servicing Checklist (Continued)

FSA-580 (10-22-97) Page 3

## 44. ADDITIONAL COMMENTS

Summarize events. What is the status of this case? What security is left? Is this a foreclosure, forced liquidation, or acceleration? If real estate is involved, is the borrower a Native American and is the real estate located within the boundaries of an Indian Reservation? Review RD Instructions 1955-A, B, and C. Give a brief history and FmHA Instruction 1951-S loan servicing history on all cases in Items 51, 52, and 53 on page 4.

Case file is submitted for acceleration. Security to be liquidated consists of two tracts. Tract 1 is a house and 15 acres, tract 2 is 160 acres-pasture and cropland.

## PART E - GENERAL HISTORY OF BORROWER

45A. Amount Delinquent \$ 15,000	45B. Date of Last Payment 7-1-96	46A. Amount Owed \$ 156,000	46B. Date of Last Contact 9-22-97
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47. Loan Types (select all that apply) ☒ FO ☒ OL ☒ ENM ☒ EE ☐ SW ☒ RH

48. Security (select all that apply) ☒ RE ☒ Chattels ☒ Crops ☒ Machinery ☒ Livestock ☐ Other

## 49. Security Position (Include FSA)

A. Creditor	B. Lien Position	C. Security Type	D. Balance Owned (\$)	E. Approximate Security Value (\$)
Rural Development	1st mortgage	RE -- 15 acres	38,000.00	50,000.00
First National	1st mortgage	RE -- 160 acres	52,000.00	102,000.00
FSA	1st lien	Crops growing in the field		6,000.00
FSA	1st lien	Cattle and Machinery	(See item 46A)	8,000.00

## 50. COMMENTS:

FSA is in a first lien position on all chattels. Some miscellaneous machinery items on hand and approximately 10 head of calves. All notes are cross-collateralized. Total chattel value is approximately \$14,000. Equity in the real estate is approximately \$62,000. FSA is approximately \$80,000 under secured. Borrower has indicated he would like to retain Tract 1. He is current with RD.

## FSA-580, Primary Loan Servicing Checklist (Continued)

FSA-580 (10-22-97) Page 4

## 51. Loan History for this Borrower

Mr. Paymore received an OL in 1976 to start a small grain and livestock operation. A few years later an FO was made to establish a headquarters unit and construct a new dwelling. During the 1980's a series of disasters occurred and EE and EM loans were made. The borrower worked very hard and was able to hold his operation together. He was always very cooperative and worked hard to be successful. In 1996 he suffered a heart attack and was in the hospital for several weeks. The borrower became discouraged because of medical bills and a poor cropping year. He was unable to make his loan installments due January 1, 1997.

## 52. Previous Servicing for this Borrower

Loans were rescheduled in 1985 and 1989. In 1992 a writedown was processed. Since then, the borrower was able to keep all loans current until January 1997.

## 53. Present Servicing for this Borrower

Borrower was sent Attachments 1 and 2 on April 20, 1997. The certified mail was unclaimed and was sent by regular mail on April 28, 1997. The borrower responded with a partial application that was received on May 20, 1997. On May 22, 1997, a letter was sent to the borrower requesting the needed items. Borrower responded satisfactorily and a complete application was received on May 31, 1997. We ran DALRS and a feasible plan was not possible without writedown. Softwood Timber is not applicable because of less than 50 acres marginal cropland. Exhibit E was sent August 10, 1997, borrower did not request mediation. Borrower is not eligible for another writedown. Borrower was sent Attachments 5 and 6A on September 12, 1997. On Attachment 6A the borrower requested a meeting, which was held September 22, 1997. All further servicing options were discussed and alternatives considered. The account is submitted for acceleration.

## PART F - PRIMARY SERVICING OFFICIAL WHO SERVICED THIS CASE

## 54. Primary Servicing Official Who Serviced This Case

Title

## 55. Signature of Local AG Credit Official Who Reviewed This Case

Title

Date

## 56. Signature of SED or Designee Certifying That the Borrower Received All Primary Loan Servicing Options

Date

This program or activity will be conducted on a nondiscriminatory basis without regard to race, color, religion, national origin, age, sex, marital status, or disability.

## FSA-581, Review Data for Inequitable Treatment

REPRODUCE LOCALLY. Include form number and date on all reproductions.

<b>FSA-581</b> (10-22-97)  <b>U. S. DEPARTMENT OF AGRICULTURE</b> Farm Service Agency  <b>REVIEW DATA FOR INEQUITABLE TREATMENT</b>	1. County	2. State
	Anywhere	Anyhow
	3. Borrower's Name	
	John D. Paymore	
	4. Borrower's Case No.	5. Date Review Was Prepared
	XX-XX-XXXXXXXXXX	11-25-97

*This form is used to show that no evidence of inconsistencies, inequitable treatment or discrimination complaints, written or oral, exist and that the borrower has received all primary loan servicing options before proceeding with acceleration or foreclosure.*

6. The running case file has been reviewed for documentation or suggestions to determine if inconsistencies exist that indicate the borrower's account was handled differently than other borrower accounts of similar status or that borrower expressed oral or written concerns or complaints relating to discrimination or inequitable treatment. Were inconsistencies found?	YES	NO
		X
7. The loan servicing time frames were reviewed to determine whether the borrower's requests were handled differently from others in the local servicing area which would indicate inconsistencies were found?		X
8. The history of the local servicing area was reviewed to determine whether cases of discrimination inequitable treatment have occurred. Have cases of discrimination or inequitable treatment occurred in this area before?		X

Check one of the following and sign below:

<input type="checkbox"/>	9. We have determined that evidence of inconsistencies do not exist in this case and foreclosure can continue. (Do not mark this statement if a discrimination claim has been filed or if Item 6 or 7 have been answered "YES".)
<input type="checkbox"/>	10. There appear to be inconsistencies, however it does not appear that discrimination was involved, borrower has received all of their servicing rights, acceleration, foreclosure/liquidation can continue.
<input checked="" type="checkbox"/>	11. There appear to be inconsistencies, however it does not appear that discrimination was involved, borrower has not received all of their servicing rights, the case is returned to the County Office for further servicing. (Note the inconsistencies Item 18.)
<input type="checkbox"/>	12. There is an appearance of inequitable treatment, therefore, we cannot determine that the borrower has been treated fairly. This form is being referred to the Office of Civil Rights, Program Complaint Adjudication Division (OCR/PCAD) staff for their review. (Note the inequitable treatment in Item 19.)

## CERTIFICATION OF REVIEWING OFFICIALS

13. Agricultural Credit Director Signature	Date
14. Civil Rights Coordinator Signature	Date
15. STC Minority Advisor or Member Signature	Date
16. State Executive Director Signature	Date
17. Food Agricultural Council Signature	Date

*This program or activity will be conducted on a nondiscriminatory basis without regard to race, color, religion, national origin, age, sex, marital status, or disability.*



## FSA-581, Review Data for Inequitable Treatment (Continued)

## FSA-581 (10-22-97) Reverse

## 18. Comments with regard to Item 11 for inconsistencies

The borrower requested a meeting with Attachment 6A. The meeting was held on September 22, 1997, with no change in the situation. Appeal rights should have been provided after the meeting. Return the file to the County Office and instruct them to provide borrower with appeal rights. When appeal rights are concluded, the County Office will need to send the borrower Exhibit K.

18A. Date Returned to County Office for further servicing

12-2-97

18B. Date County Office is to complete servicing

3-1-98

## 19. Comments with regard to Item 12 for inequitable treatment

20. Review Official Signature

Title

Date

21. Date Office of Civil Rights Contacted

23. Results

22. Person Contacted

24. Date Formally Referred to OCR/PCAD

25. Referral Official Signature (SED)